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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,988 04/04/2001		Fumito Kameyama	09792909-4986	3737
26263	7590 02/14/2003			
SONNENSCHEIN NATH & ROSENTHAL			EXAMINER	
	UVE STATION	WEINER, LAURA S		
CHICAGO, II	C 60606-1080		ART UNIT	PAPER NUMBER
			1745	10
			DATE MAILED: 02/14/2003	0

Please find below and/or attached an Office communication concerning this application or proceeding.

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7		Application No.	plicant(s)			
Office Action Summary		09/825,988	KAMEYAMA E	KAMEYAMA ET AL.		
		Examiner	Art Unit			
		Laura S Weiner	1745			
Period fo	The MAILING DATE of this communication app	pears on the cover sheet wi	ith the correspondence	address		
A SH	ORTENED STATUTORY PERIOD FOR REPL' MAILING DATE OF THIS COMMUNICATION. nsions of time may be available under the provisions of 37 CFR 1.1					
after - If the - If NO - Failu - Any r earne	SIX (6) MONTHS from the mailing date of this communication. period for reply specified above is less than thirty (30) days, a reply period for reply is specified above, the maximum statutory period or to reply within the set or extended period for reply will, by statute reply received by the Office later than three months after the mailing and patent term adjustment. See 37 CFR 1.704(b).	y within the statutory minimum of thin will apply and will expire SIX (6) MON c, cause the application to become AE	ty (30) days will be considered tin ITHS from the mailing date of thi BANDONED (35 U.S.C. § 133).			
Status	Decreasing to communication(s) filed on 04	Annil 2001	·			
1)⊠	Responsive to communication(s) filed on <u>04 /</u>	•				
2a)□	,—	nis action is non-final.				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Dispositi	ion of Claims	•	,			
4) Claim(s) 1-22 is/are pending in the application.						
	4a) Of the above claim(s) is/are withdraw	wn from consideration.				
5)	Claim(s) is/are allowed.					
6) Claim(s) is/are rejected.						
7)	Claim(s) is/are objected to.					
•	Claim(s) <u>1-22</u> are subject to restriction and/or	election requirement.				
	ion Papers					
·	The specification is objected to by the Examine					
10)[	The drawing(s) filed on is/are: a)☐ acce					
	Applicant may not request that any objection to the					
11)	The proposed drawing correction filed on		lisapproved by the Exan	niner.		
If approved, corrected drawings are required in reply to this Office action.						
,	The oath or declaration is objected to by the Ex	kaminer.				
	under 35 U.S.C. §§ 119 and 120					
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a)[	☐ All b)☐ Some * c)☐ None of:					
	1. Certified copies of the priority document					
	2. Certified copies of the priority document	s have been received in A	pplication No			
* 5	3. Copies of the certified copies of the prio application from the International Bu See the attached detailed Office action for a list	reau (PCT Rule 17.2(a)).		nal Stage		
14) 🗌 A	Acknowledgment is made of a claim for domesti	ic priority under 35 U.S.C.	§ 119(e) (to a provision	nal application).		
a	) ☐ The translation of the foreign language pro Acknowledgment is made of a claim for domest	ovisional application has b	een received.	•		
Attachmen	t(s)					
2) Notic	re of References Cited (PTO-892) re of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO-1449) Paper No(s) _	5) Notice of	Summary (PTO-413) Paper Informal Patent Application (			
J.S. Patent and Ti	rademark Office					

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## **DETAILED ACTION**

## Election/Restriction

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-7, drawn to a secondary battery wherein the concentration in mass ratio of a free acid in the electrolyte layer is 60 ppm or less, classified in class 429, subclass 188.
  - II. Claims 8-14, drawn to a secondary battery wherein the average particle diameter of the positive electrode active material lies in a range from 10-22 um, classified in class 429, subclass 209.
  - III. Claims 15-22, drawn to a secondary battery wherein the positive electrode active material layer contains 0.15 percent by weight of carbonate compound, classified in class 429, subclass 227.
- 2. The inventions are distinct, each from the other because of the following reasons:

  Inventions I and II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are not disclosed as capable of use together and have different effects such that Invention I requires the concentration in mass ratio of a free acid in the electrolyte layer is 60 ppm or less versus Invention II requires the average particle diameter of the positive electrode active

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material lies in a range from 10-22 um and Invention III requires the positive electrode active material layer contains 0.15 percent by weight of carbonate compound.

- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 4. A telephone call was made to Mr. David Metzger on Wednesday, February 12, 2002 to request an oral election to the above restriction requirement, but did not result in an election being made. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).
- 6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Weiner whose telephone number is (703) 308-4396. The examiner works a flexible schedule.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan, can be reached at (703) 308-2383. The fax phone number for non-after finals is 703-872-9310 and the fax phone number for after-finals is 703-872-9311.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Laura S. Weiner

Primary Examiner

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February 12, 2003